



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

May 4, 1939

Hon. Tom L. Beauchamp  
Secretary of State  
Austin, Texas

Dear Sir:

Opinion No. 0-660  
Re: Right of foreign electric  
cooperative corporation to  
qualify to do business in  
Texas.

We have your request for an opinion  
upon the following questions:

(1) "Is this corporation organized for pecuniary profit within the provisions of Article 1529 et seq of the Revised Civil Statutes of Texas?"

(2) "Is this corporation entitled to be granted a permit to operate in this State under the provisions of Article 1529b?"

(3) "What are the filing fees to be charged by this Department?"

(4) "What franchise tax, or license fee, is to be annually assessed this corporation?"

Your first question asks if this corporation is organized for pecuniary profit within the provisions of Article 1529 of our Revised Civil Statutes. We have examined the articles of incorporation attached to your question and

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the provisions of our Texas statute, Article 1528b relating to corporations of a similar nature. We have compared those statutes with the Arkansas Statutes relating to the same kind of corporation, and we are of the opinion that this corporation is not organized for pecuniary profit within the intendment of the provisions of Article 1529. The users of the electricity or other services rendered by such a corporation are all members of the corporation. There is no capital stock and its purpose is to serve the people of the rural communities with electricity or to enable them to obtain the necessary supplies and equipment to enjoy the use of electricity.

Your second question as to whether this corporation is entitled to be granted a permit to operate in this State under the provisions of Article 1528b. We think that the Legislature of this State intended that such a corporation should be allowed to operate in Texas and we base our opinion upon Section 7 of our Act, Article 1528b, which reads as follows:

"The word 'electric cooperative' shall not be used in the corporate name of a corporation organized under the laws of this state, or authorized to do business herein, other than those organized pursuant to the provisions of this Act."

We think that this discloses an intention of the Legislature to permit a foreign corporation to come into Texas and render the services provided for in our Act, if the circumstances merit an entrance.

Your third question as to the filing fee to be charged by the Secretary of State's Office for the permit to such a corporation, this department held in a former opinion that we thought

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the Legislature intended that our State should exercise some sort of control over such a foreign corporation, and for that reason we held that they should secure a permit to do business in Texas. Since this is a foreign corporation asking permission to come into Texas, in our opinion, your department should charge a fifty dollar filing fee for this corporation. Under Article 3914 of our Revised Civil Statutes fifty dollars is the minimum fee prescribed for a foreign corporation.

Your fourth question is what franchise tax or license tax is to be annually assessed this corporation. Section 30 of Article 1528b provides that such corporation shall annually pay a ten dollar license fee on or before May 1st of each year and shall be exempt from all other excise taxes. They are, therefore, exempt from any franchise tax, but must pay only the ten dollar annual license fee.

In our opinion the Southwest Arkansas Electric Cooperative Corporation should be issued a permit to do business in Texas. We believe the proper filing fee for such permit to be fifty dollars and that they should pay a ten dollar annual license fee on or before May 1st each year.

Yours very truly

ATTORNEY GENERAL OF TEXAS

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APPROVED:

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